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In re Application of PAEK et al :
U.S. Application No.: 09/831,218 :
PCT Application No.: PCT/US99/26126 :
Int. Filing Date: 05 November 1999 : DECISION
Priority Date Claimed: 06 November 1998 :
Attorney Docket No.: EF321689368US :
For: VIDEO DESCRIPTION SYSTEM AND :
METHOD :

This is in response to applicant's "Petition to Correct Inventorship Pursuant to 37 C.F.R. § 1.497(D)" filed 06 November 2006.

BACKGROUND

On 05 November 1999, applicant filed international application PCT/US99/26126, which claimed priority of an earlier United States application filed 06 November 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 06 May 2001.

On 04 May 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 June 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 December 2001, applicant filed a petition under 37 CFR 1.47(a) along with executed declarations.

On 26 December 2001, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 09 August 2006, this Office mailed a decision dismissing the 11 December 2001 petition and vacating the 26 December 2001 Notice of Acceptance.

On 06 November 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

As set forth in the decision mailed 09 August 2006, the declarations name an inventive entity different from that shown in the published international application. The DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which states that inventors Alexandros Elefteriadis and Charlie Judice have been removed and that inventors John Smith and Lawrence Bergman have been added.

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement from Charlie Judice has been provided. However, the requisite statements from Alexandros Elefteriadis, John Smith, and Lawrence Bergman have not been provided.

With regard to item (2) above, the requisite \$130.00 processing fee will be charged to Deposit Account No. 02-4377 as authorized in the transmittal letter filed 11 December 2001.

With regard to item (3) above, written consent of the assignee has not been provided. It is noted that proof of ownership of the assignee must be established. See 37 CFR 3.73(b).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Applicant is advised that a proper response to the decision mailed 09 August 2006 remains due. As set forth in the 09 August 2006 decision, failure to timely file a proper response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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